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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/189,615	11/09/1998	NIELS GEBAUER	33012/246	5678

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EXAMINER

ROBINSON, GRETA LEE

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 11/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/189,615

Applicant(s)

GEBAUER, NIELS

Examiner

Greta L. Robinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 1-22 are pending in the present application.
2. Claims 5, 15 and 19 have been amended.
3. **Cook and Dawson et al.** was cited as prior art in the last office action paper number twenty-two; the rejection is respectfully maintained.
4. The declaration filed on January 17, 2003 under 37 CFR 1.131 is sufficient to overcome the rejected under 35 U.S.C. 103(a) as being unpatentable over Cook US Patent 5,621,892 in view of Dawson et al. US Patent 6,347,330 B1.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by COOL ICE User's Guide Release 1.0.

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Regarding claims 1-22, COOL ICE User's Guide teaches data processing environment having a user terminal which generates a service request coupled to a publicly accessible digital communications network and having a data base management system which receives and responds to said service request when available, the improvement comprising:

a server coupled to said terminal via said publicly accessible digital communications network and coupled to said data base management system wherein said server includes an administration management system which transfers an unavailability message to said user terminal in response to said service request when said data base management system is unavailable to receive and respond to said service request ... [note page 1-2 through 1-11, and page 2-2 availability]. Applicant has admitted in the declaration under 35 USC 1.131 that the invention is encompassed in COOL ICE.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook US Patent 5,621,892.

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With respect to claim 1, Cook teaches in a data processing environment having a user terminal which generates a service request coupled to a publicly accessible digital communications network and having a data base management system which receives and responds to said service request when available, the improvement comprising:

a server coupled to said terminal via said publicly accessible digital communications network and coupled to said data base management system wherein said server includes an administration management system which transfers an unavailability message to said user terminal in response to said service request when said data base management system is unavailable to receive and respond to said service request [see: abstract; figure 2 and figure 4; col. 3 line 58 through col. 4 line 9; col. 5 lines 3-14].

Although Cook teaches the invention substantially as cited above, he does not specifically disclose that the alert is an unavailability message. However, Cook does teach an alert message may take on a wide variety of alert types [abstract; figure 3 element 220; figure 4 element 420; col. 3 line 60 through col. 4 line 9; col. 4 lines 30-40]. It would have been obvious to one of ordinary skill at the time of the invention to have implemented an unavailability type of alert in Cook et al. because it would let the system know the CPU was overloaded or full [note examples given in Cook]; also it would let the user know that the specific alert type such as the system is unavailable because of insufficient memory.

9. With respect to claims 2-4:

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(Claim 2) wherein said state manager includes a repository for storing said unavailability message [Cook note event manager (214) figure 2; col. 4 lines 50-66].

(Claim 3) wherein said publicly accessible digital communications network is the world wide web [Cook note service providers (240) col. 4 lines 2-9]

(Claim 4) wherein said repository includes space for storage of at least one variable for said availability message [Cook (622) figure 6].

10. Regarding claims 5, 15, and 19:

wherein said database management system is a commercial base management system [col. 3 lines 5-57; figure 2].

11. With respect to claim 6:

- a. a user terminal which generates a service request [Cook figure 2 (212, 220)];
- b. a publicly accessible digital communications network coupled to said user terminal [Cook network (210) figure 2]; and
- c. a server coupled to said publicly accessible digital communications network [Cook (214) figure 2];
- d. a data base management system responsively coupled to said server which responds to said service request if available [Cook (228) figure 2]; and

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e. an administration management system responsively coupled to said data base management system and said server which transfers an unavailability message from said server to said user terminal in response to said service request when said data base management system is not available to indicate unavailability of said data base management system [note: Cook, event management (222) figure 2; col. 3 line 58 through col. 4 line 9; col. 5 lines 3-14].

12. With respect to claims 7-10:

(Claim 7) wherein said data base management system has a repository having storage for said unavailability message [Cook note event manager (214) figure 2; col. 4 lines 50-66].

(Claim 8) wherein said repository has storage for a variable to be included in said unavailability message [Cook (622) figure 6].

(Claim 9) wherein said publicly accessible digital communications network is the world wide web [Cook note service providers (240) col. 4 lines 2-9]

(Claim 10) wherein said user terminal is an industry compatible personal computer having a commercially available web browser [Cook inherent].

13. With respect to claim 11:

transmitting a service request ... determining whether said data base management system is currently capable of honoring said service request ... honoring said service request ... transferring an unavailability message to said terminal if said determining step determines that said

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data base management system is not currently capable of honoring said service request [Cook col. 7 lines 6-9; col. 7 line 46 through col. 8 line 10]

14. With respect to claims 12-14:

wherein said transferring step further comprises transferring said availability message ... [Cook figure 4 (418); col. 4 lines 50-53].

15. With respect to claim 16:

means for permitting a user to interact with a digital data base by generating a service request in anticipation of a response ... [Cook col. 4 lines 40-49].

16. The limitations of claim 17, 18 and 20-22 have been addressed above therefore; they are rejected under the same rationale.

### ***Response to Arguments***

17. The declaration under 37 CFR 1.131 filed January 17, 2003 is sufficient to overcome the rejection of claims 1-22 based upon Dawson as set forth in the last Office action note new rejection supra.



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***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta Robinson whose telephone number is (703)308-7565. The examiner can normally be reached Monday through Friday from 9:30 AM to 6:00 PM. If any attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene, can be reached at (703) 305-9790.

**Any response to this action should be mailed to:**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**or faxed to:** (703)872-9306

Hand delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., fourth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)305-9600.

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A handwritten signature in black ink, appearing to read 'G. Robinson', is written over the printed name and title.

**GRETA ROBINSON**  
**PRIMARY EXAMINER**

Greta Robinson

Primary Examiner

October 5, 2003